

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**IN RE: CERTAINTIED FIBER  
CEMENT SIDING LITIGATION**

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**THIS DOCUMENT RELATES TO:**

**ALL CASES**

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**CIV. NO. 11-MD-02270-TON**

**MDL DOCKET NO. 2270**

**MOTION FOR RECONSIDERATION OF THE COURT'S JANUARY 29, 2014  
ORDER AND IN OPPOSITION TO CLASS COUNSELS' MOTION TO COMPEL  
DEPOSITIONS OF THE BANDAS OBJECTORS AND RULE TO SHOW CAUSE WHY  
THE BANDAS OBJECTORS SHOULD NOT BE SANCTIONED**

Objectors Amirali Jabrani, Janet Jabrani, and Real Homes Inc. (the "Jabrani Objectors") file their Motion for Reconsideration of the Court's January 29, 2014 Order (the "January 29 Order") and in Opposition to Class Counsels' Motion to Compel Depositions of the Bandas Objectors and Rule to Show Cause Why the Bandas Objectors Should Not Be Sanctioned (the "Reconsideration Motion"). In support of the Reconsideration Motion, the Jabrini Objectors state as follows:

**PRELIMINARY STATEMENT**

On or about January 24, 2014, Class Counsel filed their Motion to Compel Depositions of the Bandas Objectors and Rule to Show Cause why the Bandas Objectors Should Not Be Sanctioned (doc. no. 79) (the "Motion to Compel"). In it, they admitted they had not yet served subpoenas on the Jabrini Objectors. The response to the Motion to Compel was due on or before February 7, 2014.

Well prior to the response date, on January 29, 2014, the Court entered the following order:

Class Counsel's motion to compel deposition of the Bandas

objectors and Rule to Show Cause why the Bandas objectors should not be sanctioned, it is ORDERED that said motion is GRANTED.

The Bandas objectors shall appear for depositions to begin at 9:00 A.M. unless otherwise agreed to by the parties that will not exceed four hours in length and that will take place no later than February 3, 2014 at a location to be agreed upon by the parties.

Judgment is reserved on the motion for sanctions.

January 29 Order (doc. no. 85).

### **ARGUMENT**

The Jabrani Objectors seek reconsideration of January 29 Order in that: (1) it was entered before the Jabrani Objectors were given time to respond under the rules; and (2) the Jabrani Objectors are not parties to this litigation (*see Devlin v. Scardelletti*, 536 U.S. 1 (2002)) and therefore their attendance of a deposition may be compelled only by subpoena. *See* Rule 45 of the Federal Rules of Civil Procedure. As they have never been served with the subpoenas to testify, there is no legal basis to compel them to testify in this matter.

Notwithstanding the above arguments, the Jabrani Objectors agree to appear for depositions pursuant to Rule 45 of the Federal Rules of Civil Procedure, but request that they be given the opportunity to appear at a mutually agreeable date and location between now and February 12, 2014. The Jabrani Objectors request this additional time because they have just retained the undersigned counsel in the Eastern District of Pennsylvania (*see* doc. no. 90) and need to retain counsel in their home state of Missouri so that they may adequately prepare for their depositions.

### **CONCLUSION**

For the reasons herein, the Jabrani Objectors respectfully request that this Court reconsider its January 29 Order (doc. no. 85), and grant the Jabrani Objectors additional time,

through and including February 12, 2014, to appear for their depositions and that the Court grant such other and further relief as the Court deems just and proper.

**REQUEST FOR ORAL ARGUMENT**

The Jabrini Objectors request oral argument of the Reconsideration Motion.

Dated: January 30, 2014

Respectfully submitted,

LIGHTMAN & MANOCHI

By: \_\_\_\_\_



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